

STATE OF COLORADO

PUBLIC UTILITIES COMMISSION

Ronald J. Binz, Chairman
James K. Tarpey, Commissioner
Matt Baker, Commissioner
Doug Dean, Director

Department of Regulatory Agencies

D. Rico Munn
Executive Director



Bill Ritter, Jr.
Governor

EX PARTE

By Electronic Filing

October 27, 2008

The Honorable Kevin Martin, Chairman
The Honorable Jonathon Adelstein, Commissioner
The Honorable Michael Copps, Commissioner
The Honorable Robert McDowell, Commissioner
The Honorable Deborah Taylor Tate, Commissioner

Marlene H. Dortch,
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

**RE: COLORADO PUBLIC UTILITIES COMMISSION SUPPORT FOR THE
OCTOBER 18, 2008, NARUC MOTION/REQUEST FOR PUBLIC COMMENT ON
RECENTLY CIRCULATED "REPORT AND ORDER, ORDER ON REMAND, AND
FURTHER NOTICE OF PROPOSED RULEMAKING" ON UNIVERSAL SERVICE
AND INTERCARRIER COMPENSATION REFORM.**

RE: In the Matters of Developing a Unified Intercarrier Compensation Regime, CC Docket No. 01-92; High-Cost Universal Service Support, WC Docket No. 05-337; Federal-State Joint Board on Universal Service, CC Docket No. 96-45; Intercarrier Compensation for ISP-Bound Traffic, CC Docket No. 99-68; Establishing Just and Reasonable Rates for Local Exchange Carriers, WC Docket No. 07-135, IP-Enabled Services, WC Docket No.04-36

Dear Commissioners and Ms. Dortch,

The Colorado Public Utilities Commission (COPUC) understands the timing pressure the Commission is under in light of the Core Communications Federal court remand. For that reason, we urge the Commission to respond **ONLY** to the narrow issue of ISP traffic outlined in the remand order. Any other actions ordered by the Commission on the same timeline that addresses the comprehensive and complex reform of Intercarrier Compensation, Universal Service, Universal Broadband Deployment, VoIP Service Classification and federal pre-emption of these matters are patently premature and will serve only to add regulatory and economic instability to an already uncertain and unstable economy.

The COPUC is acutely aware of the need for comprehensive reform in these areas in order to keep pace with a rapidly evolving telecommunications environment. However, it is procedurally inappropriate to toss aside the required transparent process in which parties (such as the service providers and the state Commissions) are able to assess the technical, economic and legal impacts of the package of interrelated tentative conclusions that the Commission will apparently discuss on November 4, 2008. For this reason, the COPUC strongly supports the NARUC Motion/Request for Public Comment filed on October 18, 2008. An additional 90-day comment cycle is a small fraction of the time spent so far in these dockets. This comment period will provide the Commission with the analysis and data to either validate its conclusions or otherwise avoid unintended and serious damage to companies and consumers, creating a legacy of bad policy that is difficult to reverse.

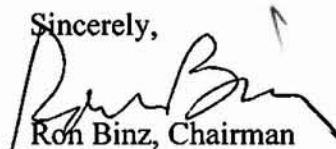
The telecommunications needs of the consumers in Colorado are served mainly by three classes of carriers, none of which are as large as Verizon or AT&T. Qwest currently provides over two million access lines, of which approximately 400,000 are rural. CenturyTel is Colorado's second mid-sized carrier with approximately 90,000 access lines. Twenty-five rural local exchange carriers serve approximately 40,000 access lines and include investor owned, private corporate, or co-op companies. Of course there are limited numbers of CLECs and wireless carriers, of which one CLEC and two wireless carriers currently receive state and federal high cost funds.

While only Qwest appears to support the tentative conclusions and a rapid schedule regarding reform, it is instructive to note that even Qwest, in its latest *ex parte*, advises the Commission on alternative conclusions in many areas. Clearly, CenturyTel feels strongly that the Commission's tentative conclusions will likely have severe impacts on its ability to sustain growth and support customers. The remaining rural carriers in Colorado simply do not have the resources to be involved directly in these regulatory processes and each will likely uniquely be impacted based on their individual cost structures. However, without the ability to see and comment on the details of the proposed order as a comprehensive package, neither the service providers nor the COPUC can adequately assess the impact and risks.

Lastly, the COPUC is very concerned that any state pre-emption to set traffic termination rates is contrary to the express rights set forth by Congress in Section 152(b) and 251(d)(3) of the 1996 Act and will lead to undesirable results for the consumers. Practically speaking, such preemption will tie the hands of the COPUC and impede its ability to make important public interest decisions regarding rate increases and state high cost fund draws if a significant component of a company's revenue is static and pre-determined without regard to the company's true costs.

Therefore, the COPUC requests that the FCC **NOT** act on a multi-billion dollar problem based on insufficient information, an inadequate record, and a compressed deliberative period.

Sincerely,



Ron Binz, Chairman
James Tarpey, Commissioner
Matt Baker, Commissioner